IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH, NAGPUR

INCOME TAX APPLICATION NOs. 28, 29 & 108 OF 1996

The Commissioner of Income-tax,
Vidarbha, Nagpur. :: APPLICANT

-: Versus :-

T. R. Lahoti,
Amravati. :: RESPONDENT

CORAM : J. P. DEVADHAR AND
B. P. DHARMADHIKARI, JJ.

DATED : 13TH APRIL, 2007.

P. C. :

1. All these reference applications under Section 256(2) of the Income Tax Act, 1961 are filed by the Revenue against the order of the Tribunal declining to refer the following questions of law for the opinion of this Court:

(1) Whether on the facts and in the circumstances of the case, the Tribunal was justified in law in holding that the incentive bonus does not form part of income assessable as 'salary'?

(2)Whether on the facts and in the circumstances of the case, the Tribunal was justified in law in holding that the income from incentive bonus constitutes income from 'Profession' and allowing expenses to the tune of 40% thereof?

(3) Whether on the facts and in the circumstances of the case, the Tribunal was justified in law in applying the ratio as laid down by the Bombay High Court in the decision reported in 197-ITR-717 ?

(4) Whether on the facts and in the circumstances of the case, the Tribunal was justified in law in not applying the ratio as laid down by the Andhra Pradesh High Court in the case of K.A. Choudhary vs. CIT reported at 183-ITR-29 (AP)?

2. Since the questions raised in these applications are covered by the judgment of this Court, by consent of the parties, these applications are treated as statement of the case and taken up for final hearing.

3. Learned Counsel for the respective parties fairly submits that the questions raised herein are covered by the judgment of this Court in the case of C.I.T. vs. Gopalkrishna Suri reported in 248 ITR 819 in favour of the Revenue. Accordingly, the references are answered in favour of the Revenue and against the assessee. The reference applications are disposed of accordingly.

4. No order as to costs.

JUDGE **JUDGE**

WWL